

REMARKS

1. Rejections

Claims 1, 2, 11, and 14 stand rejected under 25 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 4,676,376 to Keiswetter. Claims 1-5 and 7-14 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by each of U.S. Patent No. 4,892,353 to Goddard and U.S. Patent No. 4,553,785 to Duke Jr. et al. ("Duke"), in view of Keiswetter. Applicant respectfully traverses

2. 35 U.S.C. § 102(b)

Claims 1, 2, 11, and 14 stand rejected as allegedly anticipated by Keiswetter. "A claim is anticipated if and only if each and every element of the claimed invention, as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131. The Office Action alleges that Keiswetter describes each and every element as set forth in claims 1, 2, 11, and 14. Applicant respectfully traverses.

The Office Action states that Keiswetter "shows the use of a chair cover having a first and second cover surfaces (22) having a non-elastic flap (24) in order to form a pocket (20)." Referring to Keiswetter's **Fig. 1**, Keiswetter forms pocket 20 with front retainer portion 24 and rear retainer portion 24' joined by sealed seam 26'. Appl'n, Column 4, Lines 1-12. Applicant has amended claim 1 to describe:

wherein said non-elastic flap has a first edge and a second edge and said second cover surface has a first edge and a second edge and the attachment of said first edge and said second edge of said non-elastic flap directly to said corresponding first and second edges of said second cover surface forms a pair of substantially square corners, and said square corners substantially retain their shape when said pocket is disposed over said chair independent from a shape of said chair.

(Emphasis added.); see also Appl'n, Claims 11 and 14. By this amendment, Applicant clarifies that the substantially square corners of Applicant's chair cover are formed by the direct attachment of the opposing surfaces forming the pocket. In view of Keiswetter's description of front retainer portion 24 and rear retainer portion 24' joined by sealed seam 26', Applicant contends that Keiswetter does not disclose "each and every element" of the structure described in Applicant's claim 1, as amended.

In view of the foregoing amendments, Applicant respectfully requests that the Examiner withdraw the anticipation rejections of claims 1, 11, and 14. Moreover, claim 2 depends from claim 1. Therefore, Applicant respectfully requests that the Examiner also withdraw the anticipation rejection of claim 2.

3. 35 U.S.C. § 103(a)

Claims 1-5 and 7-14 stand rejected as allegedly rendered obvious by Goddard or Duke, in view of Keiswetter.<sup>1</sup> In order for the Office Action to establish a prima facie case of obviousness, at least three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as proposed by the Office Action. Second, there must be a reasonable expectation of success. Third, the prior art references must disclose or suggest all the claim limitations. MPEP 2143. For the reasons set forth below, Applicant maintains that the cited references fail to establish a prima facie case of obviousness with respect to claims 1, 11, or 14.

Specifically, the Office Action acknowledges the neither Duke nor Goddard discloses or suggests that the corners of the pocket are “substantially square corners.” Office Action, Page 2, Lines 24-25; Page 3, Lines 7-8. The Office Action alleges that this missing limitation is supplied by Keiswetter. However, as noted above, Keiswetter fails at least to disclose a chair cover in which “the attachment of said first edge and said second edge of said non-elastic flap directly to said corresponding first and second edges of said second cover surface forms a pair of substantially square corners.” Moreover, unlike Keiswetter, the square corners of Applicant’s cover “substantially retain their shape when said pocket is disposed over said chair independent from a shape of said chair,” as set forth in claims 1, 11, and 14. In Keiswetter’s **Figs. 1 and 3**, a cover is shown which has expanded by means of front retainer portion 24 and rear retainer portion 24' to fit snugly over an automobile seat and sealed seam 26' juts outward from the seat. On a thinner seat, front retainer portion 24 and rear retainer portion 24', as well as sealed seam 26', would jut outward from the seat. In neither configuration would

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<sup>1</sup> Although the Office Action does not clearly state that the obviousness rejections are based on Duke or Goddard, *in view of* Keiswetter, the Office Action relies on Keiswetter to supply the “substantially square corners” that are absent from Duke and Goddard.

Keiswetter disclose or suggest substantially square corners that "substantially retain their shape when said pocket is disposed over said chair independent from a shape of said chair."

For the reasons set forth above, Applicant maintains that the Office Action fails to demonstrate that the combined references disclose or suggest "all the claim limitations" of the amended claims. Therefore, Applicant respectfully requests that the Examiner withdraw the obviousness rejections of claims 1, 11, and 14.

Claims 2-5 and 8-13 depend from claims 1 and 11, respectively. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Therefore, Applicant respectfully requests that the Examiner also withdraw the obviousness rejections of claims 2-5 and 8-13.

CONCLUSION

Applicant respectfully submits that this application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicant's representatives, either in person or by telephone, would expedite prosecution of this application, we would welcome such an opportunity.

Respectfully submitted,

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